

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

**ARB, INC.
26000 COMMERCENTRE DRIVE
LAKE FOREST, CA 92630
ATTN: MS. LISA NELSON
WDID NO. 9 000001140**

**COMPLAINT NO. R9-2004-0191
FOR**

**VIOLATION OF EFFLUENT LIMITATIONS,
ORDER NO. R9-2002-0020, NPDES NO.
CAG679001, GENERAL WASTE DISCHARGE
REQUIREMENTS FOR DISCHARGES OF**

**ADMINISTRATIVE CIVIL LIABILITY
WITH
MANDATORY MINIMUM PENALTY**

MAY 20, 2004

**HYDROSTATIC TEST WATER AND POTABLE
WATER TO SURFACE WATERS AND STORM
DRAINS OR OTHER CONVEYANCE SYSTEMS,
SAN DIEGO REGION**

ARB, INC. IS HEREBY GIVEN NOTICE THAT:

1. ARB, Inc. is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, Water Code Section 13385. The violations alleged herein include violations of effluent limitations for discharges of pollutants from point sources to navigable waters for which the Regional Board must impose Mandatory Minimum Penalties.

ALLEGATIONS


2. ARB, Inc. discharged hydrostatic test water to San Juan Creek during installation and testing of groundwater recovery wells in the city of San Juan Capistrano, California. The discharge is subject to waste discharge requirements, Order No. R9-2002-0020, NPDES No. CAG679001, *General Waste Discharge Requirements For Discharges of Hydrostatic Test Water and Potable Water to Surface Waters and Storm Drains or other Conveyance Systems, San Diego*. ARB, Inc. enrolled for regulation under these requirements on August 29, 2003 (WDID No. 9000001140).
3. In November and December 2003, ARB, Inc.'s discharge exceeded effluent limitations for Selenium (see Table I, attached).
4. Under subdivisions (h) and (i) of Section 13385 of the Water Code, the Regional Board must impose Mandatory Minimum Penalties of \$6,000 for the alleged violations of effluent limitations, as determined by the following:

- a. **Serious Violations:** In November 2003 the concentration of Selenium (a Group I pollutant) in ARB, Inc.'s discharge exceeded the applicable Average Monthly effluent limitation (4.1 $\mu\text{g/L}$) by 40% or more. This effluent limitation violation is a "serious" violation under subdivision (h)(2) of Section 13385, for which the Mandatory Minimum Penalty under subdivision (h)(1) of Section 13385 is \$3,000.
- b. **Chronic Violations:** ARB, Inc.'s discharge exceeded the applicable Daily Maximum effluent limitation for Selenium (less than 40 percent over the limit) on four occasions during a period of less than six consecutive months, as shown in Table 1 (attached). These four effluent limitation violations are "chronic" violations under subdivision (i)(1) of Section 13385 of the Water Code. A Mandatory Minimum Penalty of \$3,000 must be imposed for the fourth "chronic" violation.

PROPOSED CIVIL LIABILITY

5. Pursuant to Section 13385 (h) and (i) of the California Water Code, the Regional Board must impose mandatory minimum penalties of \$6,000 on ARB, Inc. No additional civil liability for the violations alleged in this Complaint is recommended.

Dated this 20th day of May 2004.


JOHN H. ROBERTUS
Executive Officer

**Table 1. Violation Summary for ARB, Inc. Hydrostatic Testing
October - December 2003 Quarterly Monitoring Report**

<u>Date of Violation</u>	<u>Violation</u>	<u>Permitted Limitation</u>	<u>Reported or Calculated Value</u>	<u>Percent Exceedance</u>	<u>Serious/Chronic</u>	<u>Penalty</u>
11/5/03	Selenium Daily Maximum	8.2 µ/l	8.3 µ/l	1.2 %	Chronic	\$0
11/10/03	Selenium Daily Maximum	8.2 µ/l	9.1 µ/l	11 %	Chronic	\$0
12/5/03	Selenium Daily Maximum	8.2 µ/l	11.0 µ/l	34 %	Chronic	\$0
12/15/03	Selenium Daily Maximum	8.2 µ/l	9.4 µ/l	15 %	Chronic	\$3,000
November 2003	Selenium Average Monthly	4.1 µ/l	8.7 µ/l	112 %	Serious	\$3,000
Total Penalty:						\$6,000